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Remarks

The present response is responsive to the non-final Office Action mailed in the above referenced case on September 7, 2006. Claims 1-6, 8-31 and 33 are standing for examination. The Examiner has made a new 35 U.S.C. §103(a) rejection of all of the standing claims reference Beck, US 6332154, of record, hereinafter Beck.

Applicant has carefully studied the prior art reference Beck, which is commonly owned with the present application, and with which the applicant and his agents are intimately familiar, and have also carefully considered the Examiner's statements and reasoning in the instant Office Action. In response, applicant presents facts and arguments below to clearly show that the teaching of Beck is not the same, and does not anticipate nor render obvious the limitations in the standing claims.

As to the §103(a) rejections of all of the standing claims over the single reference of Beck, the applicant wishes to point out that the Examiner somehow failed to deal with the main argument that the applicant made in the previous response, which is the fact that the portions of the reference that the Examiner relies upon for the functions of presence software, do not in any way render obvious the limitation in the standing claims of presence software.

The Examiner continues to contend that the Beck reference teaches client status monitoring, because Beck discloses in column 6, lines 19-21 that there "may also be a step for monitoring client activity with the wizard and making that activity available to an enterprise agent through the OS." The applicant pointed out very clearly in the last response that the client activity described in Beck is not client status. The Examiner is keying on the words "monitors client activity" to read on the presence determining function claimed. The applicant still urges the Examiner to read Beck columns 1 and 7, showing clearly that the activity referred to is a part of a "self-help wizard", which includes a transaction history for a particular client, and that which is being monitored is the client's transaction history activity, not his presence or status of a communication device.

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The applicant insists, and will insist as well on appeal, that the Examiner cannot change the meaning of the reference by contending that client activity is client status. This is an allegation by the Examiner that has no support whatever in the reference, and is in fact refuted by the language of the reference.

So the reliance on Beck for the first limitation of applicant's claim 1 fails, because there is no teaching in Beck, certainly not in the passages relied-upon, to any presence software operating on a device used by a client of the communication center.

So claim 1 is patentable to the applicant over Beck, and claims 2-6 and 8-18, depended directly or indirectly from claim 1, are patentable at least as depended from a patentable claim. Further, the facts and arguments presented on behalf of claim 1 apply equally well to method claim 19, which is therefore patentable over Beck as well, and claims 20-31 and 33 are therefore patentable at least as depended from a patentable claim.

As all of the claims standing for examination have been demonstrated to be patentable over the art of record, applicant respectfully requests reconsideration, and that the present case be passed quickly to issue. If there are any time extensions needed beyond any extension specifically requested with this amendment, such extension of time is hereby requested. If there are any fees due beyond any fees paid with this amendment, authorization is given to deduct such fees from deposit account 50-0534.

Respectfully Submitted,
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